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UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORLAND DIVISION

TRANXITION, INC.,

Case No.: 3:12-cv-1066-HZ

Plaintiff,

v.

TOTAL DEFENSE, INC. a Delaware corporation, and **CA, INC.**, a Delaware corporation,

JOINT CLAIM CONSTRUCTION STATEMENT FOR U.S. PATENT NO. 6,370,646

Defendants.

CA, Inc., a Delaware corporation,

Counter-Claimant,

v.

TRANXITION, INC., a Delaware corporation,

Counter-Defendant.

TOTAL DEFENSE, INC. a Delaware corporation,

Counter-Claimant,

v.

TRANXITION, INC., a Delaware corporation,

Counter-Defendant.

Pursuant to the Court's Scheduling Order, Defendant/Counter-Claimant CA, Inc. ("CA") and Plaintiff/Counter-Defendant Tranxition, Inc. ("Tranxition") submit the following Joint Claim Construction Statement.

Set forth below is a chart setting forth the list of terms/phrases of the claims in issue and each side's proposed construction of the disputed claim language with citations to the intrinsic and extrinsic evidence in support of their respective proposed constructions. Where the parties have not offered a construction, they believe the term does not need to be construed and should be given its plain and ordinary meaning.

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Term	CA's Position	Tranxition's Position
system	<p>Plain and ordinary meaning</p> <p>Supporting evidence: ‘646 patent at Abstract; C1:11-34; C1:20-22; C1:61-C2:63; C3:26-C4:3; C4:20-36; C5:1-C7:37; Figs. 1, 5 and 6; claims 1-21</p>	<p>High-level software used to operate and maintain a computer platform.</p> <p>Supporting evidence: ‘646 patent at Abstract, 1:11-34, 1:61-2:9, 2:17-56, 3:63-4:3,4:20-36, 6:1-38, 6:46-50, 6:65-7:24, 7:35-37, claims 1-21</p>
application	<p>Plain and ordinary meaning</p> <p>Supporting evidence: ‘646 patent at Abstract; C1:11-34; C1:61-C2:56; C3:63-C4:3; C4:20-36; C4:51-C5:44; C6:1-38; C:46-50; C6:62-C7:24; 7:35-37; claims 1-21</p>	<p>Computer program product employed on a computer platform to perform a specific applied function, as distinguished from system-wide functionality.</p> <p>Supporting evidence: '646 patent at Abstract, 1:11-34, 1:61-2:9, 2:17- 56, 3:63-4:3,4:20-36, 6:1-38, 6:46-50, 6:65- 7:24, 7:35-37, claims 1-21</p>
genetic data	<p>A set of data that describes a specific personality of a computing environment</p> <p>Supporting evidence: ‘646 patent at Abstract; C1:61-C2:56; C2:64-C3:56; C3:67-C4:9; C4:63-67; claims 1, 5, 6, 7, 8, 14, 19, 20, 21</p>	<p>Set of data that describes a specific personality of a computing environment which may be applied to one more computing platforms, and which may be generated according to one or more "scripts."</p> <p>Supporting evidence: '646 patent at Abstract, 2:64-3:56, 4:3-9, 4:63- 67, claims 1, 5, 6, 7, 8, 14, 19, 20, 21</p>
script	<p>A computer-readable set of instructions configured to cause a computing system to draw system information and application information from a source computing platform or a set of data that represents a specific system or application</p>	<p>Computer-readable list of instructions to perform a task</p> <p>Supporting evidence: ‘646 patent at Abstract, Fig. 6, 1:64-2:9, 2:17- 56, 4:3-9, 6:62-7:64, claims 1-21</p> <p>The opinion of Dr. Tal Lavian</p>

Term	CA's Position	Tranxition's Position
	<p>Supporting evidence: '646 patent at Abstract; Fig. 6; C1:61-C2:56; C4:3-9; C6:62- C7:64; claims 1-21</p> <p>NOTE: CA reserves the right to proffer intrinsic and extrinsic evidence in rebuttal to the presently undisclosed opinion of Dr. Tal Lavian and/or move to strike any undisclosed evidence or opinion of Dr. Tal Lavian.</p>	<p>regarding the plain and ordinary meaning of this term to one of ordinary skill in the art around 2000.</p> <p>Newton's Telecom Dictionary (2011): "A type of computer code consisting of a set of instructions to an application or tool program. A script usually expresses instructions by using the application's or tool's rules and syntax, combined with simple control structures such as loops and if/then expressions."</p> <p>Webster's New World Computer Dictionary (2003): "A series of instructions, expressed in a scripting language, that instructs the computer to perform a specific procedure, such as logging on to an e-mail system. Most operating systems are equipped with shell scripting languages that enable a skilled operator to write scripts to perform common system maintenance tasks; these scripts can be stored in files and executed as if they were executable programs. Typically, scripts are interpreted rather than compiled, relatively short, and relatively easy to write. Some scripting languages (such as PHP) are designed to generate Web content from information stored in databases. Others, such as JavaScript, are included in Web pages and provide Web pages with features that do not require the Web browser to obtain information from the server. Still others are provided</p>

Term	CA's Position	Tranxition's Position
		<p>with applications and enable users to automate a program's functionality."</p> <p>The International Dictionary of Data Communications (1998): "A set of instructions, like a macro, that tells a program how to perform a given procedure, such as logging on to an electronic mail system. Some programs allow a user to write scripts with a limited programming language; others write the script automatically by recording keystrokes and command choices as the procedure is performed."</p> <p>Microsoft Computer Dictionary, 3rd Edition (1997): "A program consisting of a set of instructions to an application or utility program. The instructions usually use the rules and syntax of the application or utility."</p> <p>NOTE: Tranxition reserves the right to move to strike any undisclosed evidence CA intends to rely "in rebuttal" to Tranxition's position and evidence.</p>
parsing the script	<p>parsing: Plain and ordinary meaning</p> <p>script: <i>See "script,"</i> defined above.</p> <p>Supporting evidence: '646 patent at Abstract; Fig. 6 C1:61-C2:56; C4:4-9; C6:62-7:64; claims 1, 8, 19.</p>	<p>separate the script into its parts to isolate specification portions</p> <p>Supporting evidence: '646 patent at Abstract, Fig. 6, 1:64-2:56, 7:34- 37, claims 1, 8, 19</p> <p>The opinion of Dr. Tal Lavian regarding the plain and ordinary meaning of this term to one of ordinary skill in the art around</p>

Term	CA's Position	Tranxition's Position
	<p>NOTE:</p> <p>CA reserves the right to proffer intrinsic and extrinsic evidence in rebuttal to the presently undisclosed opinion of Dr. Tal Lavian and/or move to strike any undisclosed evidence or opinion of Dr. Tal Lavian.</p>	<p>2000.</p> <p>Webster's New World College Dictionary 3rd Ed.: parse: "to separate (a sentence) into its parts, explaining the grammatical form and function of each of the parts and their interrelation"</p> <p>Webster's New World Dictionary of Computer Terms 9th Ed.: parse: "to break down into components."</p> <p>NOTE:</p> <p>Tranxition reserves the right to move to strike any undisclosed evidence CA intends to rely "in rebuttal" to Tranxition's position and evidence.</p>
resolve specific user-selectable settings	<p>Plain and ordinary meaning</p> <p>Supporting evidence: ‘646 patent at Abstract; Fig. 6; C1:61-C2:56; C6:63- C7:64; claims 1, 8, 19.</p> <p>09/504,638 patent application, ‘646 Prosecution History pp. 7-31.</p> <p>Office Action mailed Nov. 26, 2001, ‘646 Prosecution History pp. 61-66</p> <p>NOTE:</p> <p>CA reserves the right to proffer intrinsic and extrinsic evidence in rebuttal to the presently undisclosed opinion of Dr. Tal Lavian and/or move to strike any undisclosed evidence or opinion of Dr. Tal Lavian.</p>	<p>determine the value of specific user-selectable settings</p> <p>Supporting evidence: ‘646 patent at Abstract, Fig. 6, 1:64-2:56, 6:63- 7:64, claims 1, 8, 19</p> <p>The opinion of Dr. Tal Lavian regarding the plain and ordinary meaning, or lack thereof, of this term to one of ordinary skill in the art around 2000.</p> <p>NOTE:</p> <p>Tranxition reserves the right to move to strike any undisclosed evidence CA intends to rely "in rebuttal" to Tranxition's position and evidence.</p>

Term	CA's Position	Tranxition's Position
utility	<p>Plain and ordinary meaning</p> <p>Supporting evidence: ‘646 patent at C1:9-26; C3:46-49; C4:20-67; Fig. 5; claims 8, 9, 10</p>	<p>Computer program employed to manage computing systems.</p> <p>Supporting evidence: ‘646 patent at 1:20-22, 2:10-27, 3:44-49, 4:25-67, 5:47-50, 6:41-46, 7:25-28, claims 8, 9, 10</p>
the script data	<p>data: Plain and ordinary meaning</p> <p>script: <i>See “script,” defined above.</i></p> <p>Supporting evidence: ‘646 patent at Abstract; Fig. 6; C1:61-C2:56; C4:4-9; C6:65-C7:36; claims 3 and 13</p> <p>09/504,638 patent application, ‘646 Prosecution History pp. 7-31.</p> <p>Office Action mailed Nov. 26, 2001, ‘646 Prosecution History pp. 61-66</p> <p>NOTE: CA reserves the right to proffer intrinsic and extrinsic evidence in rebuttal to the presently undisclosed opinion of Dr. Tal Lavian and/or move to strike any undisclosed evidence or opinion of Dr. Tal Lavian.</p>	<p>Indefinite.</p> <p>The opinion of Dr. Tal Lavian regarding the lack of a plain and ordinary meaning of this term to one of ordinary skill in the art around 2000.</p> <p>NOTE: Tranxition reserves the right to move to strike any undisclosed evidence CA intends to rely "in rebuttal" to Tranxition's position and evidence.</p>
script engine	<p>An engine that runs one or more scripts</p> <p>Supporting evidence: ‘646 patent at Abstract; C2:27-37; C6:62-7:64; Fig. 6; claims 14 and 15</p>	<p>computer program to parse and execute scripts</p> <p>Supporting evidence: ‘646 patent at Abstract, Fig. 6, 2:28-37, 6:62- 7:64, claims 14, 15</p>

Term	CA's Position	Tranxiton's Position
computing environment	<p>This term is not a limitation and does not need to be construed.</p> <p>Or, if the Court determines construction is necessary: Plain and ordinary meaning</p> <p>Supporting evidence: Abstract, C1:61-C2:63; C3:1-61; Figs. 1-5.</p>	<p>General systems, applications, folders and files resident on, or in communication with, a computing platform.</p> <p>Supporting evidence: '646 patent at Abstract, Figs. 3-5, 1:35-41, 2:10-14, 2:28-34, 2:57-63, 3:63-4:9, 4:10-4:36, 4:51-67, 6:1-38, 6:50-61, 7:38-64, claims 1, 8, 14, 19.</p>

DATED: January 8, 2013.

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CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing **JOINT CLAIM CONSTRUCTION STATEMENT FOR U.S. PATENT NO. 6,370,646** on the following named persons on the date indicated below by:

- notice of electronic filing using the CM/ECF system

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